

In the Matter of License No. 26848 and all other Licenses, Certificates and Documents  
Issued to: FRANKLIN B. WEAVER

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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FRANKLIN B. WEAVER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations sec. 137.11-1.

By order dated 6 July 1955, an Examiner of the United States Coast Guard at San Francisco, California suspended License No. 33036 (renewed and replaced by License No. 26848) issued to Franklin B. Weaver upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as Master on board the American SS FLYING TRADER under authority of the License No. 33036, on or about 25 October 1951, while said vessel was at sea, he wrongfully killed a member of the crew named William Harvey.

At the beginning of the hearing on 20 November 1951, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by counsel of his own choice and he entered a plea of "not guilty" to the charge and three specifications proffered against him. (The other two specifications were dismissed by the Examiner at the conclusion of the hearing.)

After the Investigating Officer made his opening statement, he introduced in evidence the testimony of 16 witnesses (15 of them were members of the crew) and documentary exhibits. The Examiner received in evidence additional exhibits on his own motion. On 19 December 1951, the Investigating Officer rested his case. On 31 January 1952, the hearing was adjourned in order to await the outcome of criminal prosecution against Appellant based on the same incident.

The hearing was reconvened on 17 June 1954. Appellant had not been convicted as the result of two criminal actions brought against him for manslaughter. The Examiner denied Appellant's motion to dismiss on the ground that a prima facie case had not been made out by the Investigating Officer. testimony and exhibits from the second criminal trial (United States v. Franklin B. Weaver) were then stipulated in evidence before the Examiner. This included the testimony of Appellant and other members of the crew.

Portions of Appellant's testimony which differ from the testimony of the Investigating Officer's witnesses are as follows:

- a) During the first encounter, Harvey backed Appellant into a corner of the room.

- b) Appellant did not strike Harvey with the blackjack after he was on the deck.
- c) When Appellant was returning to the scene of the disturbance, he returned to his office for a pistol because he heard that Harvey was loose and chasing the Chief Mate.
- d) Without his glasses, Appellant could not tell whether the handcuff was still on Harvey's left wrist as he approached Appellant.

On 7 July 1954, the hearing was adjourned awaiting the receipt of written briefs from counsel for Appellant and the Investigating Officer in lieu of oral argument.

Having considered the briefs, which included proposed findings and conclusions, the Examiner announced his decision by service on 28 July 1955. He concluded that the charge and one specification had been proved. The Examiner entered the order suspending all licenses and other documents, issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of one year.

Based upon my examination of the record submitted, I hereby make the following

#### FINDINGS OF FACT

On a foreign voyage commencing on 16 August 1951 and extending beyond the date of 25 October 1951, Appellant was serving as Master on board the American SS FLYING TRADER and acting under authority of his License No. 33036. A member of the crew named William Harvey was serving in the capacity of a utility messman.

On 11 September and subsequent dates, Harvey complained about his health. He did not work on 15, 19, 20 or 21 October after complaining about his heart. On 22 October, he received a physical examination at Manila and was declared to be fit for duty. Harvey performed his duties on 22 and 23 October. On 23 October, Appellant logged Harvey for not having worked on the four days in October mentioned above. He did not work on 24 October. On the evening of the latter date, Appellant said that Harvey was not sick but was crazy. Appellant told Harvey that he would be put in irons if he did not work.

At approximately 0315 on 25 October while enroute from Manila to Kobe, Japan, Harvey awakened Chief Cook Jones while in a very agitated condition and yelled at Jones to "kill the Captain". The other two cooks (Jackson and Frye) who shared the room with Jones noticed that Harvey looked strange and had a peculiar look in his eyes. He was dressed only in shorts.

Jones awakened the Chief Mate and the two of them aroused Appellant. They told him that Harvey was behaving abnormally in the cooks' quarters on the main deck, two decks below. Appellant immediately put on his trousers, shoes and eyeglasses. He obtained a pair of handcuffs and

a homemade blackjack consisting of a nut and a bolt in a black sock. The three men proceeded below followed by Assistant Cook Jackson who had left Second Cook Frye alone with Harvey in the cooks' quarters. Harvey had become quiet and was sitting on a bench in the room until Appellant entered.

When Appellant rushed into the room followed by the Chief Mate, Harvey jumped up screaming at Appellant to "get out". Harvey swung his arms as he advanced towards Appellant striking him in the face and knocking off his eyeglasses. Appellant commenced using the blackjack to beat Harvey on the head. While Appellant and the Chief Mate were fighting with Harvey, Fry grabbed Harvey from behind and forced him to the deck. Harvey continued to struggle and severely bit Fry's upper arm before Appellant and the Chief Mate were able to fasten the handcuffs on Harvey's wrists in front of him. Both handcuffs were locked but the one around Harvey's left wrist would not close completely. Appellant struck Harvey on the head and upper body at least four times with the blackjack before he was subdued. In one place on Harvey's head, the flesh was cut to the bone by one or more blows from the blackjack.

When Harvey was again quiet, Appellant handed the blackjack to the Chief Mate and told him that Appellant was going to his quarters to get another pair of handcuffs and leg irons. At this time, the Chief Mate and Frye were holding Harvey on the deck. Appellant issued no orders to them with respect to restraining Harvey or otherwise maintaining control over him. Harvey's head was bleeding considerably but no one else was seriously injured in the scuffle. No attempt was made to remove Harvey to ship's hospital although it was apparent that he was badly injured, irrational and mentally disturbed.

Appellant went rapidly to his quarters and obtained another pair of handcuffs but could not find any leg irons. He did not replace his lost eyeglasses with others which were available in his quarters. Appellant had proceeded from the cabin deck to the boat deck, one deck below, when he decided to return to his quarters and get his personal .25 caliber automatic pistol from the safe in his office. Appellant did this before returning to the main deck with the pistol in his right hand and the handcuffs in his left hand.

In the meanwhile, other members of the crew living on the main deck and boat deck had been awakened by the noise. Some of them left their rooms in order to learn the cause of the disturbance on the main deck. The passageways on the main deck in this part of the ship were arranged in the form of a rectangle with two thwartship and two fore and aft passageways. The cooks' room opened on the forward thwartship passageway. The room was to port of the port fore and aft passageway. The starboard fore and aft passageway was about 30 feet from the port passageway. The thwart passageway was about 3 feet wide and extended several feet outboard of the fore and aft passageways. There was a door at each end of the thwartship passageway. A person descending the ladder to the main deck would enter the thwartship passageway facing forward at a point a few feet to the right of the port fore and aft passageway. The door to the room in which the disturbance occurred was about 10 feet from the bottom of the ladder and on the opposite side of the thwartship passageway.

After Appellant departed for his quarters, the Chief Mate left the cooks' room for the purpose of getting a piece of line with which to tie Harvey. The Chief Mate did not give Frye any instructions. Frye was still holding Harvey although he remained quiet. Harvey persuaded Frye to release his hold and then Harvey walked through the passageways begging and pleading in a loud voice with Frye and other members of the crew to remove the handcuffs. Frye said he would see that the handcuffs were removed if Harvey was quiet and calm. The two seamen were conversing in the passageway near the door to the cooks' room when Appellant reached the bottom of the ladder leading to the main deck. Harvey was in a dazed and bloody condition.

Appellant had rapidly descended the ladder. When he suddenly arrived on the main deck, he turned to port and stopped when he saw Harvey who was then facing forward. The gun in Appellant's hand was pointed in Harvey's direction. Harvey was about 10 feet away when he began moving slowly towards Appellant in a sideways manner while pleading with him to take off the handcuffs. Harvey was holding out his hands at shoulder level. Appellant stepped backward along the thwartship passageway and told Harvey to stop, or words to that effect. Since Harvey continued to approach to within about 6 feet of Appellant, he fired a shot which struck Harvey on the right side of his right thigh. He continued to advance more rapidly without any indication that he had been hit. Harvey became highly excited and his voice became louder until he was screaming at Appellant to take the handcuffs off Harvey's wrists as he wildly waved his arms. Appellant continued retreating and he warned Harvey to stop before firing a second shot when Harvey was about 4 feet from Appellant and the latter had backed most of the way across the thwartship passageway. The second shot struck Harvey in the abdomen but he continued advancing, raised his arms to an overhead position, and said, "Go ahead, Captain, shoot me again." A few seconds after the second shot, Appellant aimed directly at Harvey's upper body at a distance of 3 feet or more and fired again. The third shot struck Harvey in the chest and he fell to the deck. Appellant had retreated a total distance of about 25 feet to the junction of the thwartship passageway and the starboard fore and aft passageway before he fired the last shot. Appellant had not attempted to obtain the assistance of members of the crew in order to restrain Harvey after Appellant returned to the main deck with the pistol in his hand; nor had Appellant attempted to enforce his order to Harvey to stop by use of the other pair of handcuffs which Appellant then had in his possession. Appellant could see that the handcuffs encircled Harvey's wrists as he approached Appellant. The handcuffs remained locked at all times after they were placed on him in the cooks' quarters.

Harvey's legs were shackled with the second pair of handcuffs and his wounds were treated in the ship's hospital as soon as he could be moved to that place. Harvey was dead either before or shortly after he was taken to the hospital.

At the time of this incident, Appellant was 30 years of age and weighed approximately 185 pounds; Harvey was 24 years old and weighed between 130 and 160 pounds; the Chief Mate weighed about 190 pounds and was 30 years old; Second Cook Frye weighed approximately 200 pounds.

Appellant has no prior record. He has held a Master's license since the age of 25.

## BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that there is insufficient evidence to support the specification for the following reasons:

Point I. The Examiner erred as a matter of law in failing and refusing to make relevant findings of fact upon undisputed evidence and in making findings of fact unsupported by and contrary to the evidence.

The Examiner failed to find that Harvey was a homicidal maniac who desired to kill Appellant upon becoming violent without prior warning; that a person in this condition has unusual strength; that it was Appellant's duty, as Master, to arrest Harvey because Appellant believed Harvey was insane; that Appellant struck Harvey only twice with the blackjack rather than "repeatedly"; that Harvey yelled and screamed and chased the Chief Mate during Appellant's absence; that Appellant ordered Frye to grab Harvey and ordered Harvey to stop advancing upon Appellant as he retreated; that Appellant removed the gun from his pocket while retreating; that Appellant intended the first shot as a warning and the second shot to injure Harvey in order to avoid a fatal shot; and that a person handcuffed, as was Harvey, can inflict serious bodily injury. A ship's Master is not under any duty to require others to jeopardize their personal safety by assisting the Master when he is dealing with a violent, homicidal maniac.

Point II: The Examiner erred as a matter of law in judging Appellant's conduct, in his position of authority as Master of a ship at sea, by a standard unsupported by and contrary to legal authority and principles.

The fundamental issue is the amount of force which Appellant was entitled to use in subduing Harvey. The Examiner incorrectly stated that the standard of conduct required by these proceedings is higher than that which is required of Masters by the established principles of civil and criminal law. The correct rule of law is that a Master is justified in using a dangerous weapon if he sincerely believes that is imminent danger and such a weapon is necessary to reduce a mutinous seaman to obedience.

Point III: The Examiner erred as a matter of law in assuming facts contrary to the evidence and adverse to Appellant in disregard of the applicable rules that Appellant is presumed to be innocent and that the burden of proof of guilt is upon the Investigating Officer.

The Examiner improperly based inferences on assumptions of fact when, with the benefit of hindsight to establish certain facts not known to Appellant at the time, the Examiner considered alternative courses of action which were open to Appellant rather than judging his conduct from the standpoint of Appellant at the time when immediate action was required. Under the circumstances, Appellant had an affirmative duty to arm himself with a deadly weapon in order to arrest Harvey without calling for assistance from others.

Point IV: The Examiner erred as a matter of law in failing to consider and apply the legal doctrines of self-defense and arrest when the undisputed facts required their application.

Appellant had a duty to imply the force necessary to arrest Harvey because he was a menace to the ship and also because of his crime of assault upon Appellant as Master of the ship. Homicide committed in self-defense is justified when a person reasonably believes that he is in imminent danger of death or serious bodily injury. Harvey was attempting to murder Appellant at the time he fired the fatal third shot, since he believed his personal safety was in imminent danger.

In conclusion, Appellant contends that the Examiner failed to make findings based on undisputed facts upon which the decision must rest and he failed to apply pertinent principles of law to such facts. A Master must act immediately, without reflection or the benefit of hindsight, to protect his crew and ship. It is respectfully submitted that the charge and specification should be dismissed.

APPEARANCES: Messrs. Pillsbury, Madison and Sutro of San Francisco by James Michael and George A. Sears, of Counsel.

### OPINION

#### Point I

Although there is a considerable amount of conflicting evidence in hearing record, the above findings of fact are supported by substantial evidence and they are in accord with the findings of the Examiner in most respects. Appellant contends that the Examiner erred in failing to make certain findings and in making some findings which are contrary to the evidence.

Preliminarily, Appellant urges that it was prejudicial error of the highest order for the Examiner to fail to make findings concerning Harvey's condition of insanity (as later established by medical authorities) and a homicidal maniac unusual physical strength. The necessity for any discussion of this point is obviated by the fact that the Examiner stated, in his opinion, that Harvey was "at least temporarily insane", "mentally deranged," "a madman", "irrational" and "violent". It would be hindsight to assume that Appellant knew, on the basis of later medical testimony, more about Harvey's mental condition at the time than is indicated by these conclusions of the Examiner based on Harvey's conduct at the time. With respect to Harvey's physical ability while insane, it is noted that Second Cook Frye testified that he subdued Harvey without difficulty at the time of the first encounter in the cooks' quarters (R. 408).

The question concerning the duty of Appellant, as Master, to arrest Harvey, if he was believed by Appellant to be insane, is discussed infra. Clearly, it could not have been for the protection of the deceased to enforce the authority to arrest to the extent that it was.

It is immaterial to the ultimate outcome whether, during the first encounter, Harvey backed Appellant into a corner of the room; whether Appellant struck Harvey with the blackjack after he was

on the deck; and whether Appellant struck Harvey "repeatedly" (as found by the Examiner) or only twice as stated by Appellant. Nevertheless, my finding that Harvey was struck with the blackjack at least four times is supported by the testimony of not less than three eyewitnesses who appeared before the Examiner. The finding that Harvey's head was split open to the bone is based on the testimony of the Chief Mate (R. 788) whose testimony was generally favorable to Appellant.

The Examiner found that after Appellant went to his quarters and was then returning to the main deck with another pair of handcuffs, he "received intelligence from which he concluded that Harvey was free in the passageways on the main deck and that he was chasing the Chief Mate during Appellant's absence. Since the Examiner specifically rejected "the testimony of the Chief Mate that he was then pursued by Harvey," I accept this determination based on the Examiner's evaluation of the testimony of the Chief Mate. But I reject the Examiner's finding that appellant "received intelligence" about an alleged fact which the Examiner found did not exist. Appellant's testimony on this point was extremely vague. He repeatedly stated that he "learned" or "heard" that Harvey was loose and chasing the Chief Mate. But when asked how he "learned" or "heard" about this, Appellant repeatedly stated, "I don't know." (R. .ii, 1058-9, 1060, 1063). In my opinion, such testimony is too weak to constitute substantial evidence that Appellant received information as to a matter which was not proved to the satisfaction of the Examiner. This cannot be accepted as the reason why Appellant returned to his quarters for a pistol. In any event, whether Harvey was chasing the Chief Mate is not considered to be a decisive element. When appellant returned to the main deck he still had the time and opportunity to lawfully restrain Harvey without resorting to such extreme measures as he did.

Appellant's contention that Harvey was constantly yelling and screaming during Appellant's absence is without merit. The Chief Mate testified that Harvey was quiet when Appellant left to go to his quarters (R. 642). Appellant testified that Harvey "started yelling and screaming" when Appellant returned to the main deck (R. 927). Obviously, Harvey could not have "started" what he had been doing all the time. Appellant also testified that Harvey and Frye were "standing" near the doorway to the cooks' quarters when Appellant reached the main deck (R. 926). The considerable weight of the evidence shows that Harvey was at least comparatively quiet while Appellant was not present; that Harvey was walking - not running - back and forth in the passageways when Frye released Harvey after Appellant went to his quarters; and that Harvey's voice was raised simply because he was pleading to be released while he was in a dazed and bloody condition. Thus, Harvey's conduct during Appellant's absence could not have been the reason why Appellant returned to his quarters for the pistol.

The Examiner conceded that Appellant might have ordered Frye to attack Harvey again from the rear but only after Frye would have been in the line of fire from Appellant's pistol. It is also proper to interpret as orders Appellant's warnings to Harvey to stop his advance towards Appellant. Nevertheless, these orders were given at too late a time to obtain any effective assistance. It would have been much more opportune to have ordered the Chief Mate to restrain Harvey while Appellant was gone.

Contrary to Appellant's contentions, the substantial weight of the evidence indicates that

Appellant had his gun in his right hand and was pointing it at Harvey as soon as Appellant reached the bottom of the ladder and turned to his left. Appellant's testimony agrees with the facts as found that Harvey commenced moving "slowly" towards Appellant (R. 928) and that Harvey was still 6 feet away from Appellant when he shot Harvey the first time (R. 937). The fact that Appellant may have intended the first shot as warning is immaterial in view of the ultimate result.

It is my opinion that the Examiner's finding that Appellant did not "feel certain that one of the wrist locks on Harvey was securely fastened" is insignificant in view of the fact that Harvey did remain securely handcuffed and the Examiner found that Appellant could see this. Appellant would have had no difficulty in this respect if he had replaced his lost eyeglasses when he returned to his quarters a second time to obtain a pistol from his safe. In addition, Appellant's alleged uncertainty concerning the handcuff on Harvey's left wrist seems inconsistent with Appellant's ability to open his safe without the aid of glasses (R. 923).

If it was error to fail to find that a seriously injured person can inflict serious bodily injury while handcuffed as Harvey was, this error was more than offset by the failure to specifically find that the uninjured Appellant could have made use of the handcuffs in his possession to subdue Harvey rather than shooting him.

#### Points II, III and IV

It is my opinion that the Examiner simply intended to mention certain standards of conduct required of a ship's Master by the established principles of law and that it was not the purpose of the Examiner to attempt to establish a higher standard of conduct peculiar to these proceedings. The Examiner pointed out that a Master has a greater duty than the ordinary man since he must, at times, make arrests to maintain order on board ship and to defend his authority as Master; he is required to act to protect his entire crew, cargo and ship as a whole; he has a duty to protect individual members of the crew against themselves and others. The Master is, of course, entitled to exercise the usual rights of self-defence to protect himself. In order to determine the propriety of Appellants conduct, it is necessary to evaluate the application of these legal standards under the prevailing circumstances.

Appellant relies heavily on a case where the court held that the Master was justified in shooting mutinous seamen in order to arrest them to protect his authority as Master of the ship. U.S. v. Colby (D.C.Mass., 1845), Fed. Cas. 14830 aff. Fuller v. Colby (C.C.Mass., 1846), Fed. Cas. 5149. Appellant also cites Commandant's Appeal No. 425 for the same proposition and states that the Commandant approved the Master's use of a gun to shoot a seaman in the arm after he refused to be quiet and attacked the Chief Mate when he attempted to put handcuffs on the seaman. In the latter case, the seaman was shot in the arm and finally subdued when hit on his head with the butt end of the Master's gun. The action was against the seaman and the Commandant noted that it was not within the scope of his review of the seaman's case to determine the Master's criminal liability or whether Coast Guard proceedings should be instituted against him. The circumstances of the shooting and the result were different than in this case.



Although the right of arrest, by use of firearms, against mutinous seamen was upheld in *U.S. v. Colby*, supra, the court stated:

"The captain must not use a deadly weapon from anger, from pride of authority, or from passion, nor upon any occasion, when the circumstances are such that he can safely wait for the passion of the seaman to subside, and reason to resume its control, so that he may be able to induce, or compel, the mutinous person to return to his duty, by the use of milder means."

But it was not a question, in this case, of a mutinous seaman attempting to usurp the authority of the Master. Harvey was mentally ill and Appellant knew it. Harvey did not attempt to injure any of the crew except when he bit Frye in the heat of combat. In fact, Harvey was reasonably quiet except when Appellant was present. It is understandable why any seriously injured person would plead with his shipmates, in a loud voice, to take handcuffs off his wrists.

Hence, the duty of Appellant to arrest Harvey in order to maintain discipline must be considered together with Appellant's responsibility for the safety of the individual members of his crew. Since Harvey was not creating any danger to others in the crew, Appellant's duty to make an immediate arrest in order to protect his authority in command and the rest of his crew. It has been ruled that a seaman suffering from delirium tremens must be guarded until he regains "mental composure and the ability to care for himself." *Reck v. Pacific-Atlantic S.S.Co.* nC.C.A. 2, 1950), 180 F.2d 866. This doctrine is supported by "The Ship's Medicine Chest and First Aid at Sea" (1929) and is equally applicable to a seaman suffering from any other form of insanity. The implication is that a greater duty of restraint is required in arresting an insane seaman than one who is mutinous.

Appellant had ample opportunity to exercise his authority of arrest when Harvey was first subdued in the cooks quarters (Arrest as used herein is meant in the sense of effectively controlling or restraining Harvey.) In fact, it was Appellant's duty to have done so, at that time, for the additional reason that Harvey required medical treatment, by force if necessary, for his injuries. Even at a later time, there were several other members of the crew who could have assisted Appellant in restraining Harvey. It has been stated that when an overwhelming force was at hand to subdue a resisting seaman, there was no occasion to treat him as roughly as he was treated when the captain was legally bound to protect the seaman's rights to the best of the captain's ability. *Latty v. Emergency Fleet Corp.* (D.C. Mass., 1922), 279 Fed. 752. In principle, this agrees with the above quotation from *U.S. v. Colby*.

For these reasons, I conclude that Appellant did not act properly within his authority, as Master, to make an arrest of a seaman when he exercised such authority to the extent of killing Harvey.

Appellant's remaining defense is that of self-defense of his person. I do not dispute the authorities which Appellant has cited to support the proposition that homicide is justified when a person has a reasonable belief that he is in imminent danger of death or serious bodily injury from the deceased. *Brown v. U.S.* (1921), 256 U.S. 335. Under such circumstances, a person may not be

required to retreat and he may use the amount of force which reasonably appears, at the time, to be necessary.

It is not believed that such circumstances existed in this particular case or that the Examiner acted on assumptions of fact or with the benefit of hindsight in concluding that appellant exercised excessive force. At the time of the incident, the relevant facts known to Appellant were as follows:

1. Harvey was mentally unbalanced.
2. At both times when Appellant first came into Harvey's view, the latter was quiet.
3. Harvey had been subdued the first time without the use of a gun. Frye had forced Harvey to the deck without the use of any weapon, Appellant was not injured.
4. When Harvey was faced by Appellant with the gun in his hand, Harvey advanced slowly towards Appellant and pleaded with him to take off the handcuffs.
5. Harvey had been injured in the previous scuffle and was a smaller man than Appellant.
6. Other members of the crew were nearby when Harvey started to approach Appellant.
7. Appellant had possession of another pair of handcuffs with which he could have defended himself.
8. The original pair of handcuffs were still secured around Harvey's wrists.
9. Appellant could have retreated aft along the starboard fore and aft passageway after reaching the junction of that passageway and the thwartship passageway.

Under these circumstances, it would be unreasonable to assume that Appellant was justified in using a gun to repel Harvey's approach; or that Appellant could reasonably have been in fear of losing his life if he did not shoot Harvey. In view of Harvey's injured condition, his manacled wrists and his smaller stature, Appellant was in a much better position than Harvey to inflict injury by using the less deadly handcuffs which were in Appellant's possession. Such blows by the Master would have been justified. *The David Evans* (C.C.A. 9, 1911), 187 Fed. 775. Also, Appellant could have obtained assistance or retreated down the starboard passageway. The killing of an injured, handcuffed man indicates the use of far more than necessary force. Hence, it is my opinion that Appellant did not act within his rights under the law of self-defense.

### CONCLUSION

Since the law shows great respect for human life, there is no justification for killing another unless one's own life is in jeopardy. Based on this criterion, I do not think that Appellant's conduct

is supported by any of the established principles of law which Appellant contends are in support of his conduct. "Wrongful killing" includes all degrees of unjustified homicide. Therefore, Appellant was guilty of wrongfully killing Harvey as alleged in the specification.

ORDER

The order of the Examiner dated at San Francisco, California, on 6 July 1955, ~~A~~**AFFIRMED**.

A. C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 23rd day of August, 1956.